

DEPARTMENT OF THE YOUTH AUTHORITY

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of the Youth Authority (Department) is proposing to adopt and amend the proposed regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department proposes to amend Sections 4730, 4732, 4733, 4734, 4735, 4736, 4737, 4739, and 4740 within Title 15, Division 4, Chapter 3, Subchapter 3, Article 1, Medical and Dental Services. The Department also proposes to adopt Article 1.5, Mental Health System, Sections 4742, 4743, 4744, 4745, 4746, and 4747, within Title 15, Division 4, Chapter 3, Subchapter 3.

PUBLIC HEARING:

Date: October 3, 2000

Time: 9:00 a.m. until 11:00 a.m.

Location: 4241 Williamsbough Drive, Room 016, Sacramento, CA 95823

At the hearing, any person may present statements or arguments, orally, or in writing, relevant to the proposed action described in the INFORMATIVE DIGEST. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENTS

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Written comments must be submitted to, and received by the Department's Contact Person no later than 3:00 p.m. on Monday, October 2, 2000. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days, prior to its adoption from the Contact Person and will be mailed to those persons who submit written comments related to this proposal, those who have requested notification of any changes to the proposal, and those who testify at the public hearing.

AUTHORITY

Section 1712, Welfare and Institutions Code, assigns responsibility to the Department of the Youth Authority to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department.

REFERENCE

This action is proposed to implement, interpret, and/or make specific Welfare and Institutions Code, Sections 1001, 1002, 1004, 1752, and 1755.3.

INFORMATIVE DIGEST

Section 1755.3 of the Welfare and Institutions Code provides that whenever any person under the jurisdiction of the Youth Authority, or any minor under the jurisdiction of the Department of Corrections, is in need of medical, surgical or dental care, the Youth Authority or the Department of Corrections, as applicable, may authorize, upon the recommendation of the attending physician or dentist, as applicable, the performance of that necessary medical, surgical or dental service.

Existing regulations, Title 15, Division 4, Chapter 3, Subchapter 3, Article 1, Sections 4730, 4732, 4733, 4734, 4735, 4736, 4737, 4739, and 4740, reflect the authority of the Youth Authority to authorize medical, surgical or dental care, upon the recommendation of the attending physician, as established in Section 1755.3 of the Welfare and Institutions Code, but do not include more recently established state and federal standards which protect the rights of persons with a mental disorder who require the involuntary administration of psychotropic medication.

Although not subject to the *Keyhea v. Rushen*, Solano County Superior Court No. 67432, Order Granting Plaintiffs Motion for Clarification and Modification of Injunction and Permanent Injunction, filed October 31, 1986, the Department of the Youth Authority proposes to adopt, in Article 1.5, Mental Health System, the substantive and procedural requirements for involuntary psychotropic medication included in this injunction. The proposed regulations will, based on the *Keyhea* injunction, be legally acceptable and will also provide procedural safeguards for Youth Authority wards with a mental disorder who meet the *Keyhea* criteria. The Youth Authority also proposes to adopt an outside review process for minors, when a parent or guardian is not available, who do not meet the *Keyhea* criteria but have a diagnosed mental disorder that would benefit from psychotropic medication.

The proposed amendments in Article 1, Medical and Dental Services, will provide compliance with Correctional Treatment Center standards and licensure law. The amendments will also require informed consent for complex treatment and procedures, as defined by the physician, and the administration of psychotropic medication as well as establish criteria for the determination of whether a ward is competent to give informed consent.

ECONOMIC IMPACT

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

The Department has determined that the proposed regulations and amendments to regulations: (1) have no effect on housing costs; (2) do not mandate any programs upon local agencies or school districts; (3) involve increased costs to the Department of the Youth Authority and no increased costs or savings to any other state agency; (4) involve no potential cost to private persons or businesses; (5) involve no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing

with Section 17500) or Division 4; (6) involve no non discretionary costs or savings to local agencies; (7) will not involve any costs or savings in federal funding to the state; (8) will not create nor eliminate jobs within California; (9) will not create new businesses or eliminate existing businesses within California; and (10) will not affect the expansion of businesses currently doing business within California.

The adoption of the proposed regulations and amendments to regulations will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because California businesses are not affected by the management of the Department of the Youth Authority.

SMALL BUSINESS IMPACT

These proposed regulations and amendments to regulations have no impact upon small businesses as the proposed regulations are specific to the provision of medical, dental, and mental health services for wards within the Department of the Youth Authority facilities.

OTHER MATTERS PRESCRIBED

No other matters are prescribed by statute applicable to the Department of the Youth Authority or to any specific regulations or class of regulations pursuant to 11346.1(b) or 11346.5(a)(4) of the Government Code, pertaining to the proposed regulations of the Department of the Youth Authority.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(12), the Department must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice. Any interested person may present statements or arguments in writing relevant to the above determinations on or before the close of the written comment period.

INQUIRIES REGARDING THE PROPOSED ACTION

Inquiries concerning the substance of the proposed regulatory action should be directed to Jay Aguas, Chief of Public Service and Program Support, Institutions and Camps Branch, Department of the Youth Authority, 4241 Williamsborough Drive, Suite 226, Sacramento, CA 95823. Telephone: (916) 262-1532/CALNET 469-1532.

TEXT OF THE PROPOSED ACTION

Copies of the exact language of the proposed regulations and amendments to regulations and the statement of reasons may be obtained upon request from the Contact Person. Copies of all information upon which the proposal is based (i.e., the rulemaking file) is available for public reading/perusal at the location listed below.

CONTACT PERSON

Karen Thomas, Regulations Coordinator, Department of the Youth Authority, 4241 Williamsborough Drive, Suite 012, Sacramento, CA 95823. Telephone: (916) 262-1437/CALNET 469-1437.